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United States Government Accountability Office  
Washington, DC 20548

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B-317194

October 6, 2008

The Honorable Max Baucus  
Chairman  
The Honorable Charles E. Grassley  
Ranking Minority Member  
Committee on Finance  
United States Senate

The Honorable Charles B. Rangel  
Chairman  
The Honorable Jim McCrery  
Ranking Minority Member  
Committee on Ways and Means  
House of Representatives

Subject: *Department of Health and Human Services, Centers for Medicare and Medicaid Services: Medicare Program; Part A Premium for Calendar Year 2009 for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), entitled “Medicare Program; Part A Premium for Calendar Year 2009 for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement” (RIN: 0938-AP04). We received the rule on September 19, 2008. It was published in the *Federal Register* as a notice on September 24, 2008. 73 Fed. Reg. 55,096.

The notice announces Medicare’s Hospital Insurance (Part A) premium for uninsured enrollees in calendar year (CY) 2009. This premium is to be paid by enrollees age 65 and over who are not otherwise eligible for benefits under Medicare Part A and by certain disabled individuals who have exhausted other entitlement.

The monthly Part A premium for the 12 months beginning January 1, 2009, for these individuals will be \$443. The reduced premium for certain other individuals will be \$244.

Enclosed is our assessment of the CMS's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that CMS complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Michael R. Volpe, Assistant General Counsel, at (202) 512-8236.

signed

Robert J. Cramer  
Associate General Counsel

Enclosure

cc: Ann Stallion  
Program Manager  
Department of Health and  
Human Services

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF HEALTH AND HUMAN SERVICES,  
CENTERS FOR MEDICARE AND MEDICAID SERVICES  
ENTITLED  
"MEDICARE PROGRAM; PART A PREMIUM FOR CALENDAR YEAR 2009  
FOR THE UNINSURED AGED AND FOR CERTAIN DISABLED INDIVIDUALS  
WHO HAVE EXHAUSTED OTHER ENTITLEMENT"  
(RIN: 0938-AP04)

(i) Cost-benefit analysis

CMS estimates that the aggregate cost to enrollees paying the premiums will be about \$142 million in calendar year 2009 over the amount paid in 2008.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

CMS has determined that the notice will not have a significant economic impact on a substantial number of small entities or on the operations of a substantial number of small rural hospitals.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

CMS has determined that the notice has no consequential effect on state, local, or tribal governments or on the private sector.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

CMS published a general notice and waived notice and comment rulemaking because the premium is dictated by a statutory formula.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The notice does not contain any information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Statutory authorization for the rule

The notice is issued pursuant to the authority contained in section 1818 of the Social Security Act (42 U.S.C. 1395i-2).

Executive Order No. 12,866

The notice was deemed economically significant under Executive Order No. 12,866 and was reviewed by OMB.

Executive Order No. 13,132 (Federalism)

CMS has determined that the notice does not have federalism implications.